IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

RP.No. 1028 of 2006(L)

AGAINST THE JUDGEMENT/ORDER IN WPC.31822/2004 Dated 01/08/2006

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: APPELLANTS/RESPONDENTS 1 & 2 IN W.P.(C)

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1. STATE OF KERALA REP.BY THE PRINCIPAL SECRETARY TO GOVERNMENT, GENERAL ADMINISTRATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ALAPPUZHA.

BY GOVERNMENT PLEADER SMT.R.BINDHU

RESPONDENTS: PETITIONER IN W.P.(C)

SAVITHRI,
W/O.N.BHASKARAN, KALARIKEL VELI,
NORTH ARYAD P.O., ALAPPUZHA.

BY ADV. SRI.J.OM PRAKASH

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

S. SIRI JAGAN, J.

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**R.P. No. 1028 OF 2006**
**IN**
**W.P. (C) No. 31822 OF 2004 L**

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Dated this the 12th day of December, 2006

O R D E R

This review petition is filed by the State for a review of my judgment dated 1.8.2006 in W.P.(C) No.31822/2004. Two grounds are mentioned in the review petition. First is that they could not place Annexures-A1 to A3 before this court at the time of hearing and if those documents were considered, this court would not have come to the conclusion it reached in the judgment. The second contention is that by virtue of the decision of the Supreme Court in ***State of M.P. and another Vs. Devkinandan Maheshwari*** reported in 2003 (3) SCC 183, the freedom fighters' pension can be claimed only from the date of sanctioning of pension and not from the date of application which was the direction in my judgment.

2. Regarding the first contention, I am of opinion that Annexures-A1 to A3 are only opinions gathered by present day officers from enquiries made by them, whereas Ext.P7 is a personal knowledge certificate issued by a prominent freedom fighter, who participated in the particular struggle and whose eligibility as a certifier is not questioned by

the State and its officers. In so far as the respondents in the writ petition do not state as to why that certificate cannot be accepted, they cannot by relying on Annexures-A1 to A3 simply reject the claim of the petitioner in the writ petition. As such, I do not find any merit in the contentions in the review petition regarding the first ground mentioned in the review petition.

3. Regarding the second ground, I find that in view of the Supreme Court decision, the petitioner in the writ petition would be eligible to get pension only from the date of sanction of pension and not from the date of application. Accordingly, I modify my judgment to the extent of directing the respondents to sanction freedom fighters' pension to the petitioner from the date of Ext.P1 and instead direct the respondents to grant pension to the petitioner from the date of sanction. However, I make it clear that orders in this regard shall be passed, within one month from today.

This review petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

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